

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE GEICO CUSTOMER DATA
BREACH LITIGATION

Case No. 21-CV-2210 (KAM)(SJB)

**REPORT REGARDING PHASE
II DISCOVERY**

In their Rule 26(f) Report (ECF No. 72), the Parties indicated that they would mediate this matter, and if mediation was unsuccessful, they would submit a report regarding Phase II discovery. The parties mediated on January 25, 2023, and did not resolve the case. Therefore, they submit this supplement to their Rule 26(f) report regarding Phase II Discovery.

Phase 2 Discovery

Phase 2 discovery is post-settlement conference discovery that takes the parties to dispositive motion practice.

1. Because this is an appeal from final agency action, discovery is not required because the parties because intend to move directly to dispositive motion practice after the production of the certified administrative record. If so, please check here: N / A, and proceed to Question 10. Otherwise, proceed to Question 2.
2. Time for amendment of the pleadings to add claims or join additional parties: February 14, 2023. (*Presumptively 15 days post settlement conference.*)
3. If additional interrogatories beyond the 25 permitted under the federal rules are needed, the maximum number permitted by plaintiff(s) _____ and _____ N/A defendant(s)

4. Number of depositions by plaintiff(s) of: 10 parties; 5 non-parties.
5. Number of depositions by defendant(s) of: 10 parties; 5 non-parties.
6. Will any independent medical examinations (IMEs) be conducted? No. Time frame for any IMEs (or describe if additional recovery or surgical intervention required before IMEs can be scheduled): N/A.
7. Date for completion of fact discovery: September 1, 2023.
(Presumptively 5 months after settlement conference.)
8. Number of expert witness of plaintiff(s): 0 medical; 2 non-medical. Date for exchange of expert report(s): November 1, 2023.
9. Number of expert witness of defendant(s): 0 medical; 2 non-medical. Date for expert report(s): November 1, 2023.
10. Date for completion of expert discovery: December 1, 2023. (Presumptively 30 days following the final exchange of expert reports).
11. Final date to take the first step in class certification motion practice: January 21, 2024. The Court will establish a date for dispositive motions after resolving class certification. (Parties are directed to consult the District Judge's Individual Rules regarding such motion practice. Presumptively 30 days post completion of expert discovery).
12. Contemplated dispositive motions:
 - a. Plaintiffs: Plaintiffs: None at this time, though Plaintiffs anticipate seeking class certification pursuant to Fed. R. Civ. P. 23 at the appropriate time and may seek summary judgment pursuant to Fed. R. Civ. P. 56 after full adjudication of a forthcoming class certification motion.
 - b. Defendants: GEICO's dispositive motion pursuant to Fed. R. Civ. P. 12(b)(1) and (6) is fully submitted and currently pending before the Court. In addition, to the extent the case is not completely disposed as a result of GEICO's Fed. R. Civ. P. 12(b)(1) and (6) motion, GEICO anticipates making a motion for summary judgment pursuant to Fed. R. Civ. P. 56.
13. Have counsel discussed the existence of electronically stored information, and discussed the location and production of such information, as required by Rule 26? YES.
Have the parties entered into an ESI protocol? YES.
Alternatively, if no ESI protocol is necessary because of the limited amount of ESI in the case: N/A.

14. Date for submission of any protective order for Court approval: N/A – already completed.

15. Details on Rule 26(f) meeting

a. Date meeting held: **October 24, 2022**

b. Plaintiff(s)' representative(s) who participated:
E. Michelle Drake of Berger Montague
Kate Baxter-Kauf of Lockridge Grindal Nauen
Tina Wolfson from Ahdoot Wolfson

c. Defendant(s)' representative (s) who participated:
John Marino and Kristen Wenger of Smith, Gambrell & Russell
Shari Claire Lewis of Rivkin Radler

16. For cases where basis of subject matter jurisdiction is diversity: N/A

a. Is any party an LLC or partnership? YES/NO. If yes, list all members of LLC or partnership and their respective states of citizenship:

b. Citizenship of each plaintiff:

c. Citizenship of each defendant:

17. Do the parties consent to trial before a magistrate judge pursuant to 28 U.S.C § 636(c)? No.
(Answer no if any party declines to consent without indicating which party has declined.)

18. Please list counsel for each side that will be appearing at the initial conference:
N/A – Already Occurred